

Amendment No. 2 to SB2788

**Kelsey
Signature of Sponsor**

AMEND Senate Bill No. 2788*

House Bill No. 3141

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-16-402, is amended by adding the following language as a new subsection (c) and redesignating subsequent subsections accordingly:

(c)

(1) For purposes of subdivision (a)(5), ways in which a public servant receives a benefit not otherwise authorized by law include, but are not limited to, if the public servant:

(A) Purchases real property or otherwise obtains an option to purchase real property if the public servant knows that such real property may be purchased by a governmental entity and such information is not public knowledge; or

(B) Under color of office or employment, communicates, directly or indirectly with the executive officer of the governmental entity concerning the purchase of real property described in subdivision (c)(1)(A), or communicates, directly or indirectly, with a person designated by such executive officer or by the charter or governing document of the governmental entity as the person authorized to make the decision that a governmental entity purchase real property described in subdivision (c)(1)(A), that the public servant owns or owns an option to purchase.

(2) Ouster provisions shall be instituted upon a conviction under subsection (a) in which the conduct described in subsection (c) is basis of the violation. In addition any person convicted of such offense shall forever

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afterwards be disqualified from holding any office under the laws or constitution of this state.

SECTION 2. Tennessee Code Annotated, Section 39-16-402, is amended by deleting subsection (d), which was redesignated as subsection (e) by this act, and substituting instead the following:

(e)

(1) An offense under subsection (a) in which the conduct described in subsection (c) is not the basis of the violation is a Class E felony.

(2) An offense under subsection (a) in which the conduct described in subsection (c) is basis of the violation is a Class A misdemeanor and the court shall order appropriate restitution to the governmental entity harmed by the offense.

(3) If the defendant's conduct violates this section and other criminal statutes, nothing in this subsection shall be construed as prohibiting prosecution and conviction for theft or any other such applicable offense in addition to or in lieu of prosecution and conviction for a violation of this section.

SECTION 3. This act shall take effect July 1, 2012, the public welfare requiring it.